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June 22, 1994

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VIA HAND DELIVERY

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

Honorable William F. Caton  
Acting Secretary  
Federal Communications Commission  
Room 222  
1919 M Street, N.W.  
Washington, D.C. 20554

Re: CC Docket No. 93-162 - MFS Communications Company, Inc. Opposition to  
Petition for Extension of Time for Filing Supplemental Direct Case and Response  
to Order to Show Cause

Dear Secretary Caton:

Enclosed for filing with the Commission are an original and seven copies of the above-referenced pleading of MFS Communications Company, Inc.

Please date-stamp the extra copy of this filing and return it in the enclosed self-addressed envelope. Any questions regarding the enclosed pleading should be addressed to the undersigned.

Respectfully submitted,



Andrew D. Lipman  
Charles H.N. Kallenbach

Counsel for MFS Communications  
Company, Inc.

Enclosures

cc: Jonathan E. Canis

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**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

JUN 22 1994

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of	)	
	)	
Local Exchange Carriers' Rates	)	
Terms, and Conditions for	)	CC Docket No. 93-162
Expanded Interconnection for	)	
Special Access	)	

**MFS COMMUNICATIONS COMPANY, INC.  
MOTION IN OPPOSITION TO PETITION FOR  
EXTENSION OF TIME FOR FILING SUPPLEMENTAL  
DIRECT CASE AND RESPONSE TO ORDER TO SHOW CAUSE**

MFS Communications Company, Inc. ("MFS"), by its undersigned counsel, pursuant to Commission Rule 1.46, 47 C.F.R. § 1.46, respectfully files this Motion in Opposition to the Petition for Extension of Time for Filing Supplemental Direct Case and Response to Order to Show Cause ("Extension Petition") filed by the United and Central Tier 1 Telephone Companies ("the Sprint LECs"). The Sprint LECs were required to file a direct case to justify their currently tariffed time and materials charges and to show cause why they should not be required to delete references in their tariff to ICB pricing for expanded interconnection cage construction and central office preparation.<sup>1/</sup> Instead of responding, and in clear violation of the Commission's Rules, the Sprint LECs seek "an indefinite extension of time" to respond to the Commission's Supplemental Order. As discussed

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<sup>1/</sup> Supplemental Designation Order and Order to Show Cause, DA 94-556 (released May 31, 1994) ("Supplemental Order").

below, the Sprint LECs' Extension Petition should be denied, and the LECs should be required to file the materials ordered by the Commission.

The Commission's Rules provide that Motions for extensions of time "shall be filed at least 7 days before the filing date."<sup>2/</sup> Pursuant to the Supplemental Order, Supplemental Direct Cases were due to be filed with the Commission on June 15, 1994. The Sprint LECs were directed to file an Answer to the Commission's Order to Show Cause concurrently with its Supplemental Direct Case, i.e., on June 15, 1994.<sup>3/</sup> Because the Sprint LECs did not file the Extension Petition until June 14, 1994, the filing violates the Commission's Rules, and so merits rejection.

Moreover, even if the Sprint LECs' Extension Petition was timely, the conduct that the Commission requested the Sprint LECs to comment upon is so egregious that the Commission should not indefinitely delay substantive review. The Supplemental Order states that:

Despite the Suspension Order's directive to delete references to ICB pricing, [the Sprint LECs] retained a tariff provision that suggests [they] would develop rates for construction in response to individual customer requests. Further, subsequent to the filing of its direct case, [the Sprint LECs] proposed an individualized rate for Teleport Communications Group that [they] characterized as an "individual case basis filing." [The Sprint LECs are] hereby directed to show cause why [they] did not comply with our Suspension Order and why it should not be required to delete all references to ICB pricing in its expanded interconnection tariff.<sup>4/</sup>

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<sup>2/</sup> 47 C.F.R. § 1.46(b) (1993).

<sup>3/</sup> Supplemental Order at 10, ¶ 23.

<sup>4/</sup> Supplemental Order at 9, ¶ 21.

The Sprint LECs therefore appear to have refused to comply with a direct Commission order, and present the possibility that the Commission may consider punitive action. Because the Sprint LECs' direct case and response to the Commission's Supplemental Order may have a direct bearing upon such action, they should be compelled to file the materials.

In addition, the tariffs of the Sprint LECs about which the Commission is requesting a response currently are in effect, and are pending investigation by the Commission. All of the rates charged by the Sprint LECs under the tariff are subject to an accounting order, and if the rates are found to be excessive, the Sprint LECs will be required to refund portions of the charges to interconnectors. The materials required by the Commission will be highly relevant to the ongoing investigation of the rates that have been -- and currently remain -- in effect.<sup>5/</sup> Grant of the Extension Petition would therefore substantially detract from the Commission's ability to judge the reasonableness of the charges that have already been paid by interconnectors.

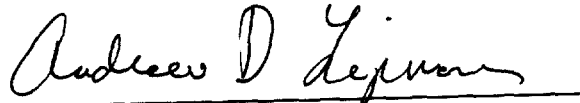
Given that the Sprint LECs are accused of refusing to comply with a direct Commission order, they should not be permitted to sidetrack the Commission's inquiry by indefinitely suspending their response to the Commission's Order to Show Cause. The

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<sup>5/</sup> The United States Court of Appeals case that the Sprint LECs cite to demonstrate that they have no obligation to abide by the Commission's Rules and directives regarding expanded interconnection, Bell Atlantic Telephone Companies v. F.C.C., Case No. 92-1619 (D.C. Cir. June 10, 1994) ("Bell Atlantic"), does not stand for such a proposition. Rather, this case calls into question the Commission's policies that mandate physical interconnection. Bell Atlantic does not purport to strip the Commission of jurisdiction over interconnection arrangements, nor does this case remove from Commission jurisdiction its power to review tariffs filed by common carriers to determine their reasonableness. The Sprint LECs' reliance on Bell Atlantic to justify noncompliance with direct Commission orders thus is misplaced.

Commission should deny the Sprint LECs' Extension Petition and require full compliance with the Supplemental Order.

Respectfully submitted,



Andrew D. Lipman  
Charles H.N. Kallenbach

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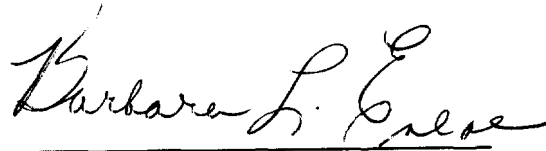
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Attorneys for  
MFS COMMUNICATIONS COMPANY,  
INC.

Dated: June 22, 1994

CERTIFICATE OF SERVICE

I, Barbara L. Enloe, hereby certify that I have on this 22nd day of June, 1994, sent via U.S. First Class Mail, postage prepaid,\* or Hand Delivery, a copy of the foregoing Motion in Opposition to Petition for Extension of Time for Filing Supplemental Direct Case and Response to Order to Show Cause, filed this date in CC Docket No. 93-162 filed this date with the Federal Communications Commission, to the persons listed on the attached service list.

A handwritten signature in cursive script, reading "Barbara L. Enloe". The signature is written in dark ink and is positioned above a horizontal line.

Barbara L. Enloe

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